REMARKS

Reconsideration of the above-identified application in view of the remarks following is respectfully requested. Claims 1-29 are pending in this application, with claims 1, 3, 10 and 11 being independent. Claims 1, 3, 9 and 11 are currently amended. Claim 2 is an original claim. Claims 16-29 are new.

Claims 1-9 have been rejected under 35 USC § 101. All rejections are respectfully traversed.

Claims 10-15 have been allowed.

The Applicant believes that all claims before the Examiner now correspond substantially to allowable subject matter, as will be detailed below.

Rejections Under 35 USC § 101

Claims 1-9 have been rejected under 35 USC 101 "because the claimed invention is directed to non-statutory subject matter." Furthermore, the Office Action alleges that "claims 1-9 are drawn to a computer implemented process that merely manipulates data or an abstract idea, or merely solved a mathematical problem without a limitation to a practical application in the technological arts.

All rejections are respectfully traversed.

The Applicant notes that according to *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008), and according to the "Guidance for Examining Process Claims in view of In re Bilski Memo (signed 7 January 2009), "the test for a method claim is whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. This is called the "machine-or-transformation test".

While continuing to traverse the Office Action's rejections under § 101, and without in any way prejudicing the patentability of the rejected claims, the Applicants

have, in order to expedite the prosecution, chosen to amend claims 1 and 3 to explicitly recite the feature that the encoding is carried out "using electronic circuitry hardcoded to effect the encoding and/or the encoding is carried out using a digital computer executing computer readable code which configures the digital computer to effect the encoding."

This amendment is supported by the originally-filed specification, for example, on page 12 of the original PCT.

The Applicant believes that independent claims 1 and 3 and claims depending from independent claims 1 and 3 are directed to statutory subject matter for at least the following reasons:

i) Claims 1 and 3 recite, among other features, the feature that the encoding is carried out using electronic circuitry hardcoded to effect the encoding and/or the encoding is carried out using a digital computer executing computer readable code which configures the digital computer to effect the encoding. Thus, the applicant respectfully submits that claims 1 and 3 are "tied to a particular machine or apparatus."

ii) Claims 16 and 23 recite, among other features, the feature that "the binarized image is derived from an image of a scene generated by a digital camera, and the binarized image represents the imaged scene." The applicant respectfully submits that according to embodiments recited in claims 16 and 23, the "particular article" representative of the imaged scene is transformed by data compression. The applicant respectfully submits that similar arguments apply to claims 17-18 and 24-25.

iii) Claims 19 and 26 recite, among other features, the feature that the "the method further comprises the step of transmitting the encoded first portion of code

symbols via a switching network." Thus, the applicant respectfully submits that claims 19 and 26 are "tied to a particular machine or apparatus" (i.e. the switching network).

The Applicant respectfully submits that because claims 1 and 3 are "tied to a particular machine or apparatus" (and therefore recite patentable subject-matter), all dependent claims that dependent from claims 1 and 3 are "tied to a particular machine or apparatus"

The patentability arguments provided above are not intended as an exhaustive list of patentability arguments – only certain arguments are currently presented for the sake of brevity.

Amendments to Claims 10 and 11

Claims 10 and 11 were allowed by the Office Action. Each of claims 10 and 11 have been amended to recite the feature that "wherein the adaptive encoder includes at least one of: A) electronic circuitry hardcoded to effect the encoding and B) a digital computer executing computer readable code which configures the digital computer to effect the encoding." This amendment is supported by the originally-filed specification, for example, on page 12 of the original PCT.

The Applicant believes that claims 10 and 11 remain allowable.

New Claims

The Applicant has elected to present 14 new claims – all claims are supported by the originally-filed specification, and no new matter has been added.

Claims 16-17 and 23-24 are supported by the originally-filed specification, for example, by FIG. 1.
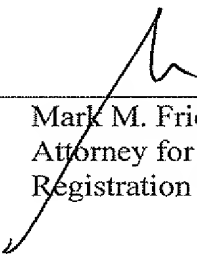
Claims 18 and 25 is supported by the originally-filed application, for example, by page 11 (see the last 8 lines of page 11).

Claims 19-20 and 26-29 are supported by the originally-filed application, for example, by element 105 of FIG. 1.

Claims 21-22 are supported by the originally-filed application, for example, by page 12

In view of the above amendments and remarks it is respectfully submitted that claims 1-29 are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

Mark M. Friedman
Attorney for Applicant
Registration No. 33,883

Date: June 25, 2009